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Subject: Comments on the Governor's Office of Planning and Research's
*Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas
Emissions*, January 8, 2009

The Planning Center's environmental team appreciates the Governor's Office of Planning and Research's (OPR) efforts on drafting amendments to the California Environmental Quality Act (CEQA) Guidelines to address project-related greenhouse gas (GHG) emissions. We offer the following specific points for OPR's consideration.

1. Changes to CEQA Guidelines Section 15064 (7)(d)(3), *Determining the Significance of Environmental Effects Caused by a Project.*

This section was modified to list additional approved plans or mitigation programs that may lessen a cumulative problem. The last plan incorporated in this list is the "statewide plan of mitigation for greenhouse gas emissions." It is assumed that the plan being referred to in this section is the California Air Resources Board's (CARB) Scoping Plan, adopted on December 11, 2009. So that it is clear to those evaluating impacts that this is the plan the list refers to, the last plan in this sentence should instead be referred to as the "Climate Change Proposed Scoping Plan (Scoping Plan)."

In addition, SB 375 requires Metropolitan Planning Organizations to prepare Alternative Planning Strategy (ACS) plans when the Sustainable Communities Strategy (SCS) plan does not achieve the regional GHG emissions reduction targets. Consequently, should the APS plan also be included in this list?

2. New CEQA Guidelines Section 15064.4, *Determining the Significance of Impact from Greenhouse Gas Emissions.*

It is not clear why the potential climate change impacts warrant a separate discussion in the CEQA Guidelines for determining the level of significance. The majority of other environmental impacts (e.g., aesthetics, air quality, noise, traffic, etc.) do not have such a section discussion. Rather, the determination of significance of GHG emissions should be based on adopted methodology and thresholds of the lead agency. The proposed section seems more appropriate for a CEQA Handbook or other guidance document for evaluating impacts under CEQA, especially as new models and methodology develop. As noted by OPR, CARB is currently drafting their own guidance document for evaluating impacts and GHG emission thresholds for CEQA and this is a separate process from the amendments to the CEQA Guidelines. Because applicable thresholds and methodology are still being evaluated, this section is premature and should not be included.

The following are specific comments on the proposed language of this new CEQA Guidelines section 15064.4:

- 15064.4(a)(1): AB 32 specifies that California needs to reduce GHG emissions to 1990 levels by 2020 and by 80 percent of 1990 levels by 2050. Since many projects have a lifespan that exceeds year 2020 and it is unnecessary to repeat the goals of AB 32 and the Scoping Plan, 15064.4(a)(1) should be revised so that it just requires a consistency evaluation with the local GHG emissions reduction plan, the regional Sustainable Community Strategy (SCS), or CARB's Scoping Plan.
- 15064.4(a)(2) and 15064.4(a)(3): These standards should be combined, as the intent of the thresholds is to require an evaluation of the net increase in energy consumed on- or off-site.
- 15064.4(a)(4): This threshold should not be included because it would imply that if a project exceeds "any" threshold (e.g., construction noise) then climate change impacts would need to be considered significant. Furthermore, thresholds for criteria pollutants differ between the different air districts and therefore should not be used as a surrogate for climate change impacts.

3. Suggested revisions to CEQA Guidelines Section 15125. *Environmental Setting.*

Existing CEQA Guidelines Section 15125(d), state that the EIR should discuss inconsistencies between the project and applicable plans in the Environmental Setting. However, this analysis is best suited for the impact section. Consequently, it is recommended that this provision be moved to section 15064 of the CEQA Guidelines. Furthermore, the word "any" should be stricken from this section as it implies a lengthy discussion and evaluation of every goal, policy, and program of every potential plan (local, regional, or statewide) adopted by an agency is necessary, even if not relevant.

4. Revisions to CEQA Guidelines Section 15126.4 (c). *Mitigation Measures Related to Greenhouse Gas Emissions.*

It is not clear why the impacts associated with climate change warrant a separate section in the CEQA Guidelines for mitigation measures. This section seems more appropriate for a CEQA Handbook or other guidance document. While a separate section on mitigation measures related to impacts on historical resources is included in the CEQA Guidelines, the mitigation measures in the historical resources section (section 15126.4(b)) clearly specify what a lead agency shall do to fully mitigate the impacts on historical resources. Compared to the historical resources mitigation, the mitigation measures suggested for climate change impacts are less clear and use language such as "should" and "may" instead of "shall." Because the methodology and thresholds for quantifying and evaluating GHG emissions under CEQA are far less established, this section should not be incorporated into the CEQA Guidelines at the present time. Our additional comments on the specific language of revised CEQA Guidelines section 15126.4 (c), include:

- 15126.4(c)(1): This section states that lead agencies should consider "all" feasible means to mitigate GHG emissions. The word "all" should be stricken from this language as it leaves EIRs open to challenge where GHG emissions impacts are considered significant.
- 15126.4(c)(2): Changing the project design is not a mitigation measure, but a change in the project description that would more appropriately be carried throughout the EIR or evaluated as a project alternative.
- 15126.4(c)(3): Compliance with previously approved mitigation programs are not mitigation, but mandatory, and therefore cannot be considered mitigation under CEQA.

- 15126.4(c)(4): Methodology for determining carbon-equivalent emissions reductions and carbon sequestration has not been fully evaluated or established. This measure should be deleted at the present time.
- 15126.4(c)(5): There is currently no definition for what a “reasonable” plan of mitigation is or who is a “relevant” agency. Would a reasonable plan need to be a plan adopted by a state agency, or could for-profit and other non-profit agencies establish carbon credits that a project could purchase and would that be considered a reasonable plan of mitigation? Would the plan need to be a plan within the state of California and mitigate impacts within the state of California; or, would plans outside of the state (e.g., Chicago Climate Exchange) be considered to be acceptable to mitigate project-related impacts in California? If retained, this provision should be clarified.

5. Revisions to CEQA Guidelines Section 15130(B).

The modifications to Section 15130(B) of the CEQA Guidelines state that previously adopted and certified environmental documentation for a plan or a regional computer modeling program reflecting the most accurate and reasonable evaluation could be used to establish the future cumulative baseline conditions. However, it is not clear at which point this information (adopted or certified EIRs or modeling) becomes stale. As it reads, modeling used for a 1980s EIR for traffic could be used to establish future cumulative conditions for a project.

6. Revisions to CEQA Guidelines Section 15152(7)(i). Tiering.

Regardless of whether or not a project is consistent with a regional or local plan that addresses GHG impacts, a project-level CEQA document will need to include a project-level GHG emissions analysis. While regional and local plans may be in place, the impact of the project on the environment will need to be evaluated. Section 15152(7)(i) should not be added to the CEQA Guidelines.

7. Revisions to CEQA Guidelines Section 15183(g)((8)

In general, CEQA Guidelines section 15183(g) 1 through 8 are out of context; meaning, the statement “examples of uniformly applied development policies or standards include, but are not limited to:” doesn’t give needed direction on how to evaluate consistency with a community plan or zoning. In addition, new section 15183(g)(8) doesn’t fit into the context of this section, as (1) parking ordinances, (2) public access requirements, (3) grading ordinances, (4) hillside development plan ordinances (5) flood plain ordinances, (6) habitat protection or conservation ordinances, and (7) view protection ordinances are codified while requirements for reducing GHG emission may not be mandatory. Furthermore, plans and policies for GHG emissions reductions are not uniformly applied or enforced.

8. Revisions to CEQA Guidelines Appendix F.

We concur that energy use is relevant for evaluating GHG emissions impacts because reducing the demand for energy will reduce GHG emissions associated with this sector. However, Appendix G of the CEQA Guidelines does not incorporate energy use as a threshold. Besides the climate change analysis, where else would CEQA practitioners need to incorporate an evaluation of energy use?

9. Revisions to CEQA Guidelines Appendix G.

In the section, *Environmental Factors Potentially Affected*, “Global Climate Change” or “Climate Change” should be included in this list.

Section II. Agricultural and Forest Resources: The Planning Center concurs that impacts to Forest Resources should be evaluated as an impact under CEQA. However, we suggest that the context of impacts to forest resources be separate from the impacts of climate change. While trees and other vegetation are important sinks of carbon dioxide emissions, these sinks are not accounted for in the state’s inventory of GHG emissions within the Scoping Plan. Furthermore, the CEQA Guidelines will need to define a “forest resource” more clearly. The current definition is vague, as it is based on land that can support 10 percent native tree cover. To avoid a project-by-project evaluation of land that can support 10 percent native tree cover, a systematic statewide mapping system will need to be developed. For agricultural resources, the California Department of Conservation has established maps that clearly designate what the state and region considers important Farmland. Second, there is no rating system for forests as there is for Farmland (Prime Farmland, Farmland of Statewide Importance, etc.). Maps that clearly designate important “forest resources” and methodology (similar to the Land Evaluation and Site Assessment model) will also need to be established so that lead agencies can identify and evaluate impacts to forest resources.

Section VII. Greenhouse Gas Emissions. It is suggested that this section should instead be referred to as “Global Climate Change” or “Climate Change” instead of GHG emissions, as that title would more appropriately frame the impacts being analyzed. Also, there is currently no threshold included in any environmental topical sections (e.g., hydrology or utilities and service systems) that address the impacts of climate change on the project. Because some of the first CEQA lawsuits specifically cited potential impacts associated with climate change regarding sea level rise and reduced water supply, these should be included in the other environmental topical areas. For example, impacts associated with rising sea levels could be included under IX. *Hydrology and Water Quality* (g): Place housing within a 100-year flood hazard areas as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map (e.g. sea level rise). Also, impacts associated with reduced water supply associated with climate change could be included as XVII. *Utilities and Service Systems* (d): Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (e.g., reduction in supply as a result of climate change).

XVI. *Transportation/Traffic:* The Planning Center concurs with OPR’s removal of “inadequate parking capacity” as a threshold in the CEQA Guidelines in the traffic section. However, impacts associated with insufficient parking may need to continue to be evaluated under the Land Use and Planning threshold (b) because insufficient parking may affect roadway capacity and traffic flow if alternative transportation options are not available. However, we disagree with the deletion/revision of the first two thresholds regarding traffic impacts. In general, the flow of traffic still matters and is an impact that needs to be evaluated in an environmental document. Furthermore, there is currently no standard methodology for evaluating vehicle miles traveled generated by a project. There are also no definitions for what constitutes a substantial amount of vehicle miles traveled. In addition, reducing the number of trips generated by a project is still important because it relates to both traffic flow and air quality impacts. Furthermore, while alternative methodology to the Institute of Transportation Engineers Level of Service (LOS) standards to evaluate traffic impacts is being developed, deletion of these first two thresholds is not warranted because lead agencies have not yet abandoned the LOS criteria. It is suggested that (b) should read, “Exceed, either individually or cumulatively, a ~~level of service~~ standard established by the county congestion management agency for designated roads or highways.” Similarly, if these thresholds are to be revised, they should be redrafted so that they give the option to evaluate impacts based on the standard adopted by the lead agency, whether it is LOS standards, context-based traffic standards, or vehicle miles traveled. This way, the threshold will remain flexible as lead agencies adopt more current thresholds that address more than just intersection capacity.

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CONCLUSION

The Planning Center would like to thank OPR for their efforts on incorporating climate change impacts in the CEQA Guidelines, and would like to be informed of further OPR's efforts regarding this issue.

Sincerely,

THE PLANNING CENTER

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